

FIRST DIVISION  
OCTOBER 28, 2013

No. 1-13-1232

**NOTICE:** This order is filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN THE INTEREST OF TITANIA W.,	)	Appeal from the
	)	Circuit Court of
Minor-Respondent-Appellee,	)	Cook County.
	)	
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Petitioner-Appellee,	)	No. 08 JA 066
	)	
v.	)	
	)	
MELISSA W.,	)	Honorable
	)	Bernard J. Sarley,
Mother-Respondent-Appellant).	)	Judge Presiding.

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JUSTICE CUNNINGHAM delivered the judgment of the court.  
Presiding Justice Connors and Justice Hoffman concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's decision to vacate the Department of Children & Family Services' guardianship of the minor, terminate wardship, appoint private guardians to the minor, and close the case, was not against the manifest weight of the evidence.

¶ 2 This appeal arises from a March 19, 2013 order entered by the circuit court of Cook County, which vacated the Department of Children & Family Services (DCFS)'s guardianship of the minor, Titania W. (Titania), terminated the court's wardship of Titania, appointed private guardianship for

Titania, and closed the case. On appeal, Titania's biological mother, Melissa W. (Melissa), argues that the trial court's decision to grant private guardianship for Titania and close the case was against the manifest weight of the evidence. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 3

### BACKGROUND

¶ 4 Titania was born on January 19, 2008 and is currently five years old. Titania's biological mother is Melissa, and her biological father is unknown. On January 23, 2008, when she was four days old, Titania came to the attention of DCFS when her mother, Melissa, left her at the Haymarket drug treatment center without a child care plan while Melissa checked herself into a psychiatric hospital. At that time, Melissa was a resident of Haymarket drug treatment center and was receiving inpatient substance abuse treatment. The psychiatric hospital later diagnosed Melissa with bipolar disorder, mixed personality with psychosis, and severe depression. Thereafter, Titania was taken into protective custody by DCFS and placed in the foster care of her maternal great-aunt, Edna G. (Edna), and great-uncle, Willie G. (Willie).

¶ 5 On January 29, 2008, the State filed a petition for adjudication of wardship, alleging that Titania had been abused and neglected, and requesting that she be adjudged a ward of the court. On that same day, January 29, 2008, a temporary custody hearing was held during which the trial court granted DCFS temporary custody of Titania, appointed the Cook County public guardian to represent her, and allowed supervised day visitation between Titania and Melissa.

¶ 6 In a June 27, 2008 social assessment conducted by a caseworker at a child welfare agency, Uhlich Children's Advantage Network (UCAN), it was noted that Melissa had been prescribed

psychotropic medication for her mental illnesses and that psychiatric hospital personnel had recommended Melissa receive treatment at a psychiatric intermediate care facility for 90 days. However, because Melissa did not have insurance coverage for such ongoing inpatient psychiatric care, it was recommended by the psychiatric hospital that she receive outpatient therapy and medication. The UCAN assessment noted that Melissa had a history of substance abuse problems and had received inpatient treatment at Haymarket drug treatment center at the time of Titania's birth. On that same day, June 27, 2008, a family service plan was initiated by DCFS which recommended that Melissa participate in a psychological evaluation, a substance abuse assessment, a parenting capacity assessment, and any services that may be recommended by these assessments.

¶ 7 On September 10, 2008, Melissa underwent a psychological evaluation with Dr. Bill Moor (Dr. Moor) at Suburban Clinical Services. Dr. Moor diagnosed Melissa with bipolar disorder; personality disorders; attachment and dependency disorder; substance abuse issues; adult antisocial behavior; and neglect of a child. Dr. Moor recommended that Melissa participate in a psychiatric follow-up evaluation to determine the benefits of medication to stabilize her disorders; weekly individual psychotherapy; substance abuse counseling; and weekly supervised visitation with Titania.

¶ 8 On October 21, 2008, the State filed an amended petition for adjudication of wardship, which added an allegation that Titania was a "dependent" minor because of her mother's mental disability.

¶ 9 On October 29, 2008, an adjudicatory hearing was held to determine whether Titania was a neglected, abused and/or dependent child. The trial court found that Titania was a dependent minor, under section 2-4 of the Juvenile Court Act of 1987 (the Act) (705 ILCS 405/2-4(1)(b) (West 2008)), who was without proper care because of Melissa's psychiatric diagnosis and hospitalization. On

January 5, 2009, a disposition hearing was held to determine the fitness of Titania's parents. The trial court found that Melissa, as the biological mother of Titania, was "unable for some reason other than financial circumstances alone to care for, protect, train, or discipline the minor," and that Titania's biological father was an unknown individual who was unable and unwilling to care for her. The trial court then entered an order adjudging Titania the ward of the court and appointing the DCFS guardianship administrator as her guardian.

¶ 10 On July 1, 2009, pursuant to section 2-28 of the Act (705 ILCS 405/2-28 (West 2008)), a permanency hearing was conducted to determine the future permanency status of Titania, based on the information provided in a December 30, 2008 DCFS family service plan. The family service plan rated Melissa's progress as unsatisfactory, but noted that Melissa had started visiting Titania and had been attending substance abuse counseling. Although Melissa reported that she was seeing a psychiatrist and had completed a parenting class, she did not provide the DCFS caseworker with any verification of this claim. It further noted that Melissa had refused to participate in certain services. The trial court then found that the appropriate permanency goal for Titania is to "return home" within 12 months and that Melissa had made substantial progress toward this goal. The trial court further found that DCFS had made reasonable efforts in providing services to facilitate achievement of the permanency goal, and that DCFS shall continue to provide services consistent with this goal.

¶ 11 On August 1, 2009, a parenting capacity evaluation (PCE) was completed which stated that the bond between Titania and Melissa was steadily improving, and that their attachment level was moderate. The PCE noted that Melissa had just begun to receive individual therapy and that she will need to continue therapy in order to address issues of substance abuse, Melissa's troubled

relationship with her own mother, mental health issues, and parenting issues. The PCE recommended that Melissa continue to receive medication monitoring for her bipolar disorder, and that she be provided with parent coaching and housing assistance.

¶ 12 On May 17, 2010, during a permanency hearing, the trial court found that Melissa was making substantial progress toward the goal of return home, and that she was "progressing in services geared toward reunification." The trial court again found that DCFS had made reasonable efforts in providing services to facilitate achievement of the permanency goal. The trial court also entered an order allowing Melissa to have unsupervised day visits with Titania, by limiting the unsupervised visits to occur in public places for the duration of one hour.

¶ 13 On July 26, 2010, a Cook County Juvenile Court Clinic (CCJCC) evaluation was completed to assist the court in permanency planning and visitation planning. The CCJCC evaluation noted that Melissa had made "satisfactory" progress on her participation in the planned services, such as individual therapy and parent/child interaction therapy, and that she had been compliant with medication monitoring and visitation with Titania. The CCJCC evaluation further noted that Melissa had completed outpatient substance abuse services in July 2009 and continued to test negative in drug screenings. It recommended that Melissa continue her participation in individual therapy, medication monitoring, "NA/AA" meetings, and parent coaching. The CCJCC evaluation also recommended that Melissa be provided assistance with securing low-income housing. According to the CCJCC evaluation, Melissa's likelihood to be able to adequately care for, parent, and protect Titania was "very good," and rated her likelihood to make the gains necessary to achieve a goal of return home as "good." It noted that, should the permanency goal be changed to guardianship or

termination of parental rights, it will likely have a "minimal long-term negative impact" on Titania.

¶ 14 On November 19, 2010, another permanency hearing was conducted during which the trial court again found that the appropriate permanency goal was "return home within 12 months" and that Melissa had made substantial progress towards meeting that goal. The trial court stated that the reasons for selecting this goal and for ruling out other goals, such as adoption, private guardianship and termination of parental rights, was because Titania's "placement is safe [and] appropriate" and Titania and Melissa were "in need of services geared toward reunification."

¶ 15 On August 12, 2011, Hephzibah Children's Association (HCA) completed an independent clinical assessment of Melissa, Titania and Titania's foster parents, Edna and Willie. The HCA assessment revealed that Melissa had been inconsistent in her visits with Titania; that she had missed several visits without canceling in advance; that, at Melissa's request, her psychiatrist had completely taken her off psychotropic medication as of October 2010; that the psychiatrist placed Melissa back on medication as of June 20, 2011; and that Melissa had not made progress in either finding employment or housing. HCA opined that when Melissa was taking her psychotropic medication, her mental illness was managed appropriately and she was able to meet Titania's needs during the hours of her visitation. However, once she was off the medication, Melissa's mental illness became uncontrollable and she "seemingly reverted to being unable to put her daughter's needs ahead of her own." The HCA assessment noted that Melissa was living with her mother, that Melissa must find appropriate housing prior to beginning overnight visitation with Titania, and that there was a history of tension between Melissa and her mother. As part of the HCA assessment, Titania was observed in the home of her foster parents, Edna and Willie, with whom she had a close bond. It was observed

that both Edna and Willie had a strong level of commitment to Titania's needs—including her participation in individual therapy and psychological services, as well as medical needs relating to her asthma. HCA recommended that the permanency goal be changed to private guardianship, that Titania remain in the home of Edna and Willie, but that Melissa be allowed to continue regular visitation with Titania.

¶ 16 On August 25, 2011, the HCA assessment was filed with the trial court. On that same day, August 25, 2011, the trial court entered a new visitation order limiting Melissa to have only supervised visits with Titania. At a permanency hearing on August 31, 2011, the trial court found that the appropriate permanency goal continued to be "return home within 12 months" because Melissa was now in compliance with taking her medication. However, the trial court found that Melissa made "some," rather than "substantial," progress toward the goal of return home.

¶ 17 On February 23, 2012, the trial court conducted a permanency hearing and heard Melissa's motion to reinstate unsupervised day visitation with Titania. At the hearing, a January 23, 2012 DCFS family service plan was admitted as an exhibit, in which DCFS rated Melissa's progress toward the goal of return home as unsatisfactory because Melissa had not obtained a stable living environment, had been inconsistent with her therapy and visits with Titania, and had been arrested for "prostitution-soliciting" on December 29, 2011. Following the hearing, the trial court found that the goal of return home was "ruled out" and changed the permanency goal to "private guardianship," stating that Titania's foster home was safe and appropriate. The trial court further denied Melissa's motion to reinstate unsupervised day visitation with Titania.

¶ 18 On August 29, 2012, at the next permanency hearing, a July 19, 2012 DCFS family service

plan was presented in which DCFS noted that since February 23, 2012, Melissa had only visited Titania on two occasions. The DCFS family service plan stated that all parties, including Melissa, were in agreement at the February 23, 2012 permanency hearing that the permanency goal should be changed to "private guardianship." It further noted that Melissa was unable to care for Titania and a permanent home would be found for Titania. At the conclusion of the hearing, the trial court again found that the appropriate permanency goal was "private guardianship," by noting that Titania was in a safe and appropriate foster home and the foster parents were willing to be her guardians.

¶ 19 On March 7, 2013, DCFS filed a motion to vacate DCFS' guardianship of Titania, terminate the court's wardship of Titania, and close the case (motion to vacate), alleging that Titania had a strong attachment to her foster parents, Edna and Willie; that a background check revealed no felony convictions for Edna and Willie; that they were qualified to serve as Titania's guardians; that Titania's biological parents had not cooperated with services aimed at family reunification nor had they made satisfactory progress toward the goal of return home; and that adoption was not a permanency option for Titania because Edna and Willie did not wish to alter the family relationship. On that same day, March 7, 2013, DCFS filed a petition to appoint Edna and Willie as private guardians of Titania (petition to appoint private guardians) (755 ILCS 5/11-3 (West 2010)), alleging that it was in the best interest of Titania that Edna and Willie be appointed as her guardians.

¶ 20 On March 19, 2013, a hearing on DCFS' motion to vacate and petition to appoint private guardians was held, during which several witnesses testified. Alfredia Johnson (Johnson) testified on behalf of DCFS that she was a UCAN caseworker who had been assigned to Titania's case for about a year. Johnson testified that Titania was five years old and had lived with her maternal great-



aunt and great-uncle, Edna and Willie, since she was two or three weeks old. There had never been any unusual incidents, signs of abuse or neglect, nor signs of corporal punishment exhibited in the foster home. Neither Edna nor Willie had a history of abusing or neglecting children. Although Willie had a conviction for driving under the influence (DUI) in 1999, Johnson did not have any concerns regarding any drug or alcohol abuse issues by Willie. Johnson testified that, other than Titania, Edna and Willie, no one else resided in the foster home. She described Titania's bond with her foster parents as "very close," noting that Titania calls Edna "Aunt" and calls Willie "Dadda." Johnson stated that Edna and Willie appeared to take very good care of Titania. During Johnson's February 26, 2013 visit to the foster home, Titania told Johnson that she wanted to remain in Edna and Willie's home. Up until the date of the hearing, Johnson has had ongoing conversations with Edna and Willie regarding Melissa's visits with Titania. Edna informed Johnson that, should the court close the case and appoint her and Willie as private guardians of Titania, she would allow Melissa to have reasonable visitation with Titania. Johnson testified that both goals of "return home" and adoption had been ruled out as a permanent option for Titania, and that adoption was specifically ruled out because Edna and Willie did not want to sever Titania's relationship with Melissa. Johnson testified that Melissa visited Titania twice a month at the agency office. During the visits, Titania appeared very comfortable with Melissa, the visits appeared "healthy," Melissa often brought treats and games for Titania, and the duo appeared to have a "good time together." Johnson testified that there is a bond between Titania and Melissa, and that Titania calls her "Mom." Since Johnson had been assigned to Titania's case, there had been no unusual incidents regarding Melissa's visits with Titania. Johnson testified that Titania was "doing very well" in school, that she was not in need of

services at that time, and that she had no special medical needs other than the use of a nebulizer or inhaler for her asthma. Johnson stated that Edna and Willie adequately provided for Titania's medical needs, and that they were licensed foster parents who received a subsidy for taking care of Titania. Johnson believed that private guardianship was in Titania's best interest and that there was no risk of harm if Edna and Willie were appointed private guardians of Titania, and recommended that the case move forward to private guardianship in order for Titania to have "stability." Johnson noted that Titania was in Edna and Willie's care over the entire duration of DCFS' guardianship of Titania, and that they understood their requirement to provide Melissa with visitation if they were appointed private guardians of Titania. Johnson testified that nothing has occurred which would allow "return home" to be a viable goal

¶ 21 On cross-examination, Johnson testified that Melissa was seeing a therapist at UCAN and a psychiatrist regularly, and that she was seeking employment. She noted that DCFS no longer paid for Melissa's services once the permanency goal was not "return home" and that Melissa engaged in these services on her own. Johnson stated that Melissa informed her at the last court hearing that she was compliant in taking her medication. Melissa had also completed a number of services, including parenting classes and parent-child interactive therapy. Johnson described Melissa's visits with Titania as "safe and appropriate." According to Johnson, the foster parents have indicated that they were willing to meet and cooperate with Melissa regarding visitation, and they understood that Melissa was entitled to at least one visit with Titania per month.

¶ 22 Following Johnson's testimony, three exhibits were admitted by Melissa's counsel: (1) a February 12, 2013 letter from UCAN counseling intern, Brittany Dumek (Dumek), stating that

individual counseling was provided to Melissa on a bi-weekly basis until Melissa's discharge in June 2013; (2) a February 6, 2013 letter from Tracy McDonald (McDonald), a nurse practitioner at Mount Sinai Hospital, confirming that Melissa was receiving psychiatric treatment since July 2011 and that she had been regularly taking her medications as prescribed; and (3) several certificates of completion of services by Melissa—including parenting classes and a substance abuse education program—dating between November 2008 and April 2010.

¶ 23 Edna testified on behalf of DCFS that she was Titania's foster mother and great-aunt. According to Edna, no one other than she, Willie and Titania reside in their home. Edna desired to be appointed a private guardian of Titania, and understood Melissa's right to be provided a minimum of one monthly visit with Titania, in the event that she and Willie became Titania's private guardians. Edna acknowledged that, as private guardians, she and Willie would be responsible for setting up and supervising Melissa's visits with Titania. According to Edna, she and Melissa had already begun discussions regarding the issue of visitation, and the visits were scheduled to occur on Sundays at least twice a month in a public setting. Edna testified that Titania was doing well in school and that Titania had a nebulizer and inhaler to treat her asthma. Edna understood that, if she and Willie were appointed private guardians, they could not revert custody of Titania to Melissa without the court's permission.

¶ 24 Willie testified on behalf of DCFS that he was Titania's foster father. Willie testified that he consented to being appointed private guardian of Titania. He understood that, if he and Edna were appointed as Titania's private guardians, Melissa was entitled to visit with Titania at a minimum of once per month, and they could not relinquish custody of Titania to Melissa without court

intervention.

¶ 25 Melissa testified that she was engaged in individual therapy on her own accord, that she was seeing a psychiatrist at Mount Sinai Hospital, and that she was taking psychotropic medications for her bipolar disorder. Melissa visited Titania twice a month at the UCAN office, and, during those visits, they read books, color, practice writing, play games, watch television, listen to music and eat. Melissa attests that the visits were safe and appropriate, and that Titania enjoyed the visits and continued to call Melissa "Mom." Melissa testified that a strong bond exists between her and Titania. Previously, Melissa had successfully completed counseling, parenting classes, and a drug treatment program. Melissa testified that she was requesting the court to change the permanency goal back to "return home" because of her concerns that the foster parents would be unwilling to provide her with monthly visitation of Titania. Melissa pointed out that Edna and Willie had not provided her with any other visits with Titania aside from her visits at the UCAN office, and that Melissa was not allowed to visit Titania at their home. Melissa was concerned that communicating with the foster parents directly, without the help of an agency caseworker, would be problematic. Melissa described her communication with Edna and Willie as consisting only of talking "sparsely on important subjects" because she did not have a close relationship with them. On cross-examination, Melissa stated that, in the best interest of Titania, she was willing to work with Edna and Willie to coordinate visits and to communicate with them. She acknowledged that, at a 2012 hearing, she agreed to a permanency goal of private guardianship, but explained that she only did so because she was "frustrated and exhausted" with dealing with the foster parents, and that she had changed her mind and no longer agreed to private guardianship. Melissa expressed concerns that

Edna and Willie would not allow her to be in Titania's life, and testified that she would continue to work to reunite with Titania.

¶ 26 Following the parties' argument, the trial court found, based on all the evidence, that it was in the best interest of Titania to vacate DCFS' guardianship, terminate the court's wardship, and close the case. The trial court found that Titania was well cared for by her foster parents, Edna and Willie, and that "return home," adoption and termination of parental rights had been ruled out as possible goals. The trial court noted that it considered Titania's wishes to remain in Edna and Willie's home, that Edna and Willie desired to provide permanency for Titania, and that they were willing to continue providing Melissa with visitation. The trial court then entered an order appointing Edna and Willie as private guardians of Titania, and directing them to permit Melissa reasonable visitation of Titania at a minimum of once per month. The order specified that the visits shall be unsupervised unless the private guardians determine that supervision was necessary for the safety or protection of Titania, and that the private guardians may not change the conditions of custody or alter the order.

¶ 27 On April 9, 2013, Melissa filed a notice of appeal.

¶ 28 ANALYSIS

¶ 29 The sole issue on appeal is whether the trial court erred in granting DCFS' motion to vacate its guardianship of Titania, terminate the court's wardship, and close the case, and in appointing Edna and Willie as private guardians of Titania. A trial court's decision regarding private guardianship is reviewed under a manifest weight of the evidence standard. *In re V.M.*, 352 Ill. App. 3d 391, 397 (2004). A judgment is against the manifest weight of the evidence only when an opposite conclusion is clearly apparent, or where the findings are unreasonable, arbitrary, and not based upon any of the

evidence. *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52 (2008); *In re J.J.*, 327 Ill. App. 3d 70, 77 (2001).

¶ 30 Melissa argues that the trial court's decision to establish private guardianship and close the case was against the manifest weight of the evidence because she had completed services, had a bond with Titania, and it was in Titania's best interest that Melissa be given an opportunity for reunification. Specifically, Melissa contends that the record is devoid of any findings by the trial court that Titania was abused or neglected, that Johnson's testimony revealed that she exhibited minimum parenting standards, and that she was involved in counseling and was compliant with taking her medication—all of which was compelling evidence that she was able to parent her child and that the trial court's decision was against the manifest weight of the evidence. Melissa maintains that the trial court should have instead entered a permanency goal of "return home," which would have allowed Titania to remain in the foster home while Melissa would have further participated in services necessary for reunification.

¶ 31 The public guardian argues<sup>1</sup> that the trial court's ruling was not against the manifest weight of the evidence, where the preponderance of the evidence established that it was in Titania's best interest to be placed in private guardianship with Edna and Willie. Specifically, the public guardian contends that Melissa had failed to complete the services necessary to achieve reunification in the five years since Titania was removed from her care, that she did not progress enough through the services to achieve unsupervised visits with Titania, and that all of the evidence supported the court's appointment of private guardianship for Titania.

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<sup>1</sup>The State takes the same position as the public guardian and adopts the entirety of the public guardian's arguments on appeal.

¶ 32 The purpose of the Act is to serve the best interests of the child involved. 705 ILCS 405/1-2(1) (West 2010); *In re V.M.*, 352 Ill. App. 3d at 397. A trial court is vested with wide discretion to determine the best interests of the child. *In re J.J.*, 327 Ill. App. 3d at 77. Section 1-3(4.05) of the Act lists factors that the court shall consider whenever a "best interest" determination is required, including the physical safety and welfare of the child; the development of the child's identity; the child's sense of attachments; the child's wishes and long-term goals; the child's community ties; the child's need for permanence (including the child's need for stability and continuity of relationships with parental figures, siblings or other relatives); and the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (a), (b), (d), (e), (f), (g), (j) (West 2010). In addition, "the court may consider the nature and length of the child's relationship with the present caregiver and the effect on the child's emotional and psychological well-being of a change in placement." *In re Tasha L.-I.*, 383 Ill. App. 3d at 52. The child's best interest is superior to all other factors, including the interests of the biological parents. *In re V.M.*, 352 Ill. App. 3d at 398.

¶ 33 In determining that it was in Titania's best interest to award private guardianship to Edna and Willie, the trial court found that Titania was well cared for by her foster parents, and that "return home," adoption and termination of parental rights had been ruled out as possible goals. The trial court noted that it considered Titania's wishes to remain in Edna and Willie's home, that they desired to provide permanency for Titania, and that they were willing to continue providing Melissa with continued visitation.

¶ 34 Based on our review of the evidence, we find that the trial court's decision to establish private guardianship for Titania was supported by the manifest weight of the evidence. At the March 19,

2013 hearing, UCAN caseworker Johnson testified that there had never been any unusual incidents, signs of abuse or neglect, nor signs of corporal punishment exhibited in the foster home. She testified that neither Edna nor Willie had a history of abusing or neglecting children, and described Titania's bond with them as "very close." Johnson further testified that both Edna and Willie appeared to take very good care of Titania, that Titania expressed the wish to remain with her foster parents, that Titania was "doing very well" in school, that the foster parents adequately provided for Titania's medical needs, that adoption was not an option because the foster parents did not want to sever Titania's relationship with her mother, and that private guardianship was in Titania's best interest in order to ensure "stability" for Titania. Both Edna and Willie testified at the hearing that they desired to be appointed as private guardians of Titania and that they understood that Melissa had a right to visit Titania at a minimum of once per month. Although Melissa was granted unsupervised day visits by the court between May 2010 and August 2011, the record reveals that since August 2011, Melissa had not sufficiently progressed toward the goal of reunification in order to regain permission to have unsupervised visits with Titania. See *In re Tasha L.-I.*, 383 Ill. App. 3d at 53 (court's determination to award private guardianship to foster parents was not against the manifest weight of the evidence, where the natural parents had failed to make reasonable progress and had not progressed to the point of being allowed to have unsupervised visits; thus, the return of the minor to natural parents would not be supported by the evidence).

¶ 35 Nonetheless, Melissa argues that the trial court's ruling was against the manifest weight of the evidence, and cites *In re Alicia Z.*, 336 Ill. App. 3d 476 (2002) and *Miske v. Department of Children & Family Services*, 110 Ill. App. 3d 278 (1982), for support. We find Melissa's reliance



on these cases to be misplaced. In *In re Alicia Z.*, the reviewing court reversed the lower court's decision to transfer guardianship of two children to the foster parents, finding that it was against the manifest weight of the evidence where the biological father had participated in the recommended services toward reunification; the biological father's progress was hindered by DCFS' failure to provide the services in his native language; DCFS gave conflicting information to the biological father regarding which therapy sessions he was required to attend; and the foster parents actively undermined his diligent efforts to regain custody and attempted to alienate him from his children. *In re Alicia Z.*, 110 Ill. App. 3d at 495-97. Unlike *In re Alicia Z.*, in the case at bar, the evidence is devoid of any indication that either DCFS or the foster parents hindered Melissa's efforts to regain custody of Titania. We further find *Miske* to be factually distinguishable. In *Miske*, a father sought custody of his natural child after the child was removed from the mother's custody on the grounds of neglect. *Miske*, 110 Ill. App. 3d at 279. The trial court awarded custody to a third party on the basis that it was in the best interest of the minor. *Id.* The appellate court reversed, finding that the trial court did not give consideration to the father's rights as a biological parent because it only considered the father as a "custodial alternative" and passively examined his custody petition. *Id.* at 281-82. Unlike *Miske*, Melissa was thoroughly examined by the trial court over the course of the instant five-year-old case. During this period, a majority of time was spent attempting to work toward the goal of reunification. It was only after Melissa's progress toward the goal of "return home" was deemed unsatisfactory that the trial court changed the permanency goal to private guardianship. Thus, we find that Melissa's reliance on these cases to be without merit.

¶ 36 In support of her contention that the trial court's ruling was against the manifest weight of

the evidence, Melissa directs this court's attention to evidence showing that she had a bond with Titania, that her visits were "safe and appropriate," that she demonstrated appropriate parenting skills, that she was involved in counseling on her own accord, that she was taking her medication, and that she had completed parenting classes and substance abuse treatment. She contends that the trial court, in making its ruling, did not afford sufficient weight to her positive progress. We reject this contention. The fact that Melissa could point to some evidence to bolster her case did not necessarily mean that an opposite result was clearly apparent or that the trial court's findings were arbitrary, unreasonable or not based upon the evidence. See generally *In re Faith B.*, 359 Ill. App. 3d 571, 574 (2005) (the fact that natural mother could point to some conflicting evidence was insufficient to overturn the trial court's decision to place her two children in private guardianship with two aunts). As discussed, the evidence reveals that Melissa had not sufficiently progressed toward the goal of reunification in order to regain permission to have unsupervised visits with Titania, that Edna and Willie had a strong bond with Titania and cared for her well, that the case had been pending before the trial court for five years at the time the court established private guardianship for Titania, and that Johnson testified that private guardianship was in Titania's best interest because it would provide stability to her. See 705 ILCS 405/1-3(4.05)(g) (West 2010) (child's need for permanence is an enumerated factor in making a "best interest" determination). The trial court believed that 5 years was more than enough time for Melissa to demonstrate sufficient progress toward the reunification goal. She clearly had not done so. Thus, we cannot conclude that an opposite conclusion was clearly apparent.

¶ 37 We further reject Melissa's argument that private guardianship was not in Titania's best

interest because a permanency goal of "return home" would have allowed for significantly more contact between her and Titania. Specifically, Melissa argues that, by closing the case and establishing private guardianship, her visitation rights with Titania decreased from twice a month to once a month, and that there was no evidence that such a decrease was justified on any grounds or was in Titania's best interest. She contends that a reduction in the frequency of visits would weaken Titania's ties with her. We find that although the terms of the court's March 19, 2013 order required Edna and Willie to provide Melissa with visitation once per month, there was no evidence indicating that Edna and Willie would only allow the minimum once a month visit. Rather, Edna testified that, as Titania's private guardian, she would continue to provide Melissa with visitation "at least twice a month" for as long as Melissa would like to visit Titania. Moreover, even if Edna and Willie only allowed visitation once a month, the record is devoid of any evidence that one monthly visit was not in Titania's best interest. It is worth mentioning again that Melissa had 5 years of support, encouragement and opportunity to show that she could meet the goal. She was unable to do it; the trial court believed and, we agree, that Titania's best interests would be served by bringing stability to her life and living arrangements. Thus, although Melissa's argument suggests the trial court's ruling may not have been best for her, we believe it is best for Titania. Accordingly, we cannot say that the opposite conclusion was clearly apparent and we find that Melissa's argument on this basis must fail.

¶ 38 We further reject Melissa's contention that the trial court erred in considering Titania's desire to remain in Edna and Willie's home, on the basis that there was no evidence that Titania was likewise given an opportunity to express an opinion about returning to her mother's care. Melissa

contends that, if Titania's wishes were a factor in the court's decision, it was only "fair and reasonable" that Johnson also asked Titania whether Titania wanted to stay with her mother. We find this argument to be unpersuasive. Melissa's argument assumes that Johnson did not ask Titania about whether she wanted to live with Melissa. At the March 19, 2013 hearing, counsel for Melissa could have inquired of Johnson further about her conversation with Titania regarding Titania's wishes. However, counsel did not choose to do so. We find that, in determining Titania's best interest under the Act, the trial court appropriately considered Titania's wishes. See 705 ILCS 405/1-3(4.05)(e) (West 2010). Moreover, we find that, even absent evidence of Titania's wishes to remain in Edna and Willie's home, other evidence—such as the fact that Titania had lived with Edna and Willie most of her life, that they cared for her well and provided a stable environment for Titania, that Titania was doing well in school, and that Edna and Willie wanted to continue to care for Titania as her private guardians—sufficiently supported the trial court's ruling. Therefore, we hold that the trial court's decision to vacate DCFS' guardianship of Titania, terminate wardship, appoint Edna and Willie as private guardians of Titania, and close the case, was not against the manifest weight of the evidence.

¶ 39 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 40 Affirmed.